

CLOSING SUBMISSION
to the
COMMISSION ON THE POSTAL SERVICE

BY THE
NATIONAL POSTAL MAIL HANDLERS UNION
1101 CONNECTICUT AVENUE, NW
WASHINGTON, DC 20036
(202) 833-9095

The National Postal Mail Handlers Union (NPMHU) submits this closing statement on behalf of almost 60,000 mail handlers employed by the U.S. Postal Service.

The NPMHU's earlier statements addressed specific issues related to collective bargaining and the postal workforce, and this closing submission will not be repetitive. For reasons previously explained, the NPMHU urges the Commission not to recommend any changes in the process that currently governs collective bargaining between the major postal unions and USPS management. That negotiations process has worked successfully for more than thirty years, and there is unanimity amongst the relevant parties that improvements in recent years will continue into the foreseeable future.

Instead, the NPMHU focuses these closing comments on the one overriding question that still needs to be confronted by the Commission: that is, will its report and recommendations serve as a guide for future legislative action to reform the U.S. Postal Service; or will the report contain unsubstantiated conclusions about the Postal Service and its dedicated employees, and thereby join the ever-growing collection of discredited and discarded studies on the future of the USPS that are routinely issued in the Nation's Capital.

Obviously, the NPMHU believes that the Commission should use its report and recommendations to support constructive efforts at amending the Postal Reorganization Act of 1970 so that the vital mail industry

supported by the Postal Service and its employees will be able to flourish into the 21st century. The NPMHU has been supporting such efforts at legislative reform for many years, to ensure that the Postal Service will have the flexibility over rate-making and product design that is necessary for it to survive without governmental interference and without significant governmental subsidy. If the Commission's report were to include recommendations on these subjects, as well as other structural matters facing the Postal Service, the Commission would be doing a tremendous service to the American people.

Unfortunately, some recent actions taken by the Commission suggest that the Commission might be considering recommendations that, in the NPMHU's view, would be an unjustified attempt to interfere with the relationship between the Postal Service, its unionized employees, and the current collective bargaining process that governs their relationship. In particular, in recent weeks the Commission has unilaterally acted to solicit testimony, reports from consultants, and other evidence into its record of proceedings that, taken together, would allow the Commission to criticize postal employees, the current collective bargaining process, and the pay and compensation systems that have resulted from more than thirty years of good-faith negotiations. If the Commission were to include such troubling recommendations in its report, they would seriously detract from other aspects of the Commission's report and from the serious consideration that Congress should give to matters of postal reform.

For example, there was consistent testimony before the Commission – from postal management, from the NPMHU and other postal unions, and even from a panel of highly-respected, neutral arbitrators – that the current collective bargaining process is working well. For thirty-three years, the parties have successfully used the current statutory process to maintain fair and equitable wages and benefits, while avoiding the labor strife and economic warfare that often characterizes private-sector labor-management relations. Arbitrators and participants all agree that the process has improved dramatically over the years, and may be a model for other labor-management negotiations. Nonetheless, despite this virtual unanimity of opinion, the Commission has solicited testimony and purchased consultant studies that suggest major changes in the collective bargaining process and the compensation systems that pay postal employees.

One example is the testimony on pay comparability solicited from Professor Michael Wachter, who previously has been retained (and continues to be paid) as an advocate for management in wage arbitrations. Since the early 1980s, for more than twenty years, neutral arbitrators have reviewed the consulting reports prepared by Professor Wachter and his colleagues, as well as contrary reports prepared by opposing economists who have been retained by the unions representing postal employees. The evidence generated could fill several truckloads, and would take several days even to summarize. In every instance, these arbitrators have concluded that postal employees should continue to receive the general

wage increases and cost-of-living adjustments that currently are included in all of the relevant collective bargaining agreements. Indeed, the most recent agreement voluntarily reached by the NPMHU and the Postal Service – without resort to interest arbitration – specifically continues this pattern until 2006. It therefore would be wholly disruptive, if not totally disingenuous, for the Commission to offer its opinion on these contested matters. In fact, it is certain that each one of the arbitrators previously addressing these matters has devoted more time and effort to an analysis of the underlying facts and arguments than the Commission could possibly afford to contribute during its abbreviated schedule of hearings and deliberations.

Another academic consultant retained by the Commission has recommended that the current arbitration process be changed, and that final-offer interest arbitration – in which an arbitrator is prohibited from compromising between the final offers submitted by labor and management – serve as its substitute. It bears noting that this consultant did not even bother to seek the views of the NPMHU or other postal unions about this serious subject. Nor did he recognize that the current statutory language allows for final-offer arbitration, when the parties deem it to be within their mutual best interests, and that such a process previously has been used during prior rounds of postal bargaining. Perhaps of most importance, this consultant's report never has been subjected to careful scrutiny or serious rebuttal. Thus, if the Commission were to issue any recommendations

based upon it, the Commission's report would lack the basic attributes of a fair and reasoned study.

On a related issue, witnesses testifying on behalf of the Postal Service have urged the Commission to recommend changes in the statutory impasse procedure that would require mediation followed by arbitration using the same decision-maker. This "med-arb" proposal (which, it bears noting, also is permitted by the current statutory language and also has been utilized in prior rounds of bargaining when the parties considered it advisable) also has never been subjected to careful analysis. There is, for example, a substantial body of literature on dispute resolution that questions the use of "med-arb" systems because they discourage serious mediation efforts by breaching the traditional rules governing confidential communications with an appointed mediator. Yet the Commission record contains no analysis of these issues, other than a few off-hand remarks that were made during the hearings held in Chicago, IL on April 29, 2003.

Still another report – prepared by consultants who publicly admitted that they had little, if any, working knowledge of the Postal Service or its employees – has recommended that the Commission adopt a pay-for-performance program containing incentives and bonuses based on the amount of mail processed and delivered each calendar quarter. The consultants suggesting this incentive pay at least had the good sense to seek input from union representatives – who, by law, serve as the exclusive representative for non-supervisory postal employees – and heard unanimous

opposition for such a compensation system during these discussions. In the resulting report, however, these objections were dismissed out-of-hand with the unproven declaration that “employees appear to be more receptive to the idea of variable pay than are their union representatives.” Again, if the Commission were to incorporate this recommendation into its final report, it would be clear evidence that the Commission has adopted the pre-determined agenda of those who support incentive-pay programs in the federal government. Indeed, a neutral consultant making a serious attempt to study and issue findings on the use of pay-for-performance programs in the Postal Service first would take into account the fact that postal unions and postal management previously have negotiated about incentive pay systems, and have jointly concluded that they do not work for non-supervisory personnel. In these circumstances, the NPMHU believes that any support for incentive pay systems in the Commission’s final report would seriously undermine other Commission recommendations calling for meaningful efforts to adopt the reform legislation that the Postal Service desperately needs.

The Commission also has retained a so-called expert to examine the grievance and arbitration process that currently is established under Article 15 of the various National Agreements between the Postal Service and the major postal unions. Although, as of this writing, this consultant’s study has not yet been issued, the decision to hire such a consultant shows a lack of respect for the collective bargaining process and the union and

management representatives who have engaged in good-faith negotiations on these issues. For many years, the parties in collective bargaining have labored strenuously to adjust and amend the grievance and arbitration processes to ensure more timely and less costly dispute resolution. Yet the Commission apparently believes that one consultant's report, prepared in just a few short weeks, could be used to override years of hard work and might develop a "magic" solution that has not previously been identified and considered by representatives of labor and management.

Also unworthy of supportive recommendations from the Commission are changes in the workers' compensation system that have been proposed by one witness testifying on behalf of the Postal Service. For many years, the workers' compensation system governing all federal and postal employees has been studied, investigated, analyzed, and debated in Congress and in the Executive Branch. Yet, based solely on one witness, and without seeking or encouraging any opposition testimony, the Commission may recommend significant changes in the rules governing this statutory program. The undeveloped record on this issue should counsel against any such recommendations.

Another issue that should not be the subject of any Commission recommendation is retiree health insurance for postal employees. The NPMHU sees no reason why this subject should suddenly become the subject of collective bargaining, when it has been adequately legislated for many decades, simply because the Postal Service wants such a change and

has latched upon the Commission as a possible mouthpiece on this issue. Moreover, just a few weeks ago, in the legislation that fixed USPS funding requirements for the Civil Service Retirement System, Congress expressed its view that some portion of the future costs of retiree health insurance should be paid using the retirement savings now accruing to the Postal Service, and that the Postal Service and other government agencies should consider other methods of dealing with any unfunded liability. There also is a similarly open question on funding for military retirees, for which the Postal Service is now inappropriately paying more than its rightful share, because the federal government is not contributing the costs properly attributable to the Department of Defense. These are complicated issues on which the Commission has little expertise, and which have not been the subject of fair and open consideration by the Commission. Again, there is no record on which the Commission could issue a fair-minded recommendation.

The examples could continue, but there is little reason to belabor the point. As the NPMHU previously has testified before the Commission, the Postal Service needs Congress to enact, and the President to sign, a package of legislative proposals that will modernize the price-setting and product-design systems that have governed the Postal Service since the Postal Reorganization Act was adopted in 1970. Neither the Postal Service nor its employees, however, need wholesale legislative changes on matters related to the terms and conditions of employment. And certainly neither the Postal

Service nor its employees would be served by Commission recommendations to change the collective bargaining process or the compensation rules or benefits that have resulted from prior collective bargaining. To the contrary, any such recommendations – based, as they inevitably would be, on a record that is lacking in even-handed debate or objective analysis of the underlying facts and arguments – would cast serious doubt on other aspects of the Commission’s report or the usefulness of other Commission recommendations.

The NPMHU therefore urges the Commission not to issue any recommendations on collective bargaining, employee compensation and benefits, or other related issues. These matters are best left to the union and management representatives, who should – and will – continue to address these matters while engaging in good-faith negotiations under the current statutory language.